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REMARKS/ARGUMENTS

Claims 1, 10, 18 and 20 have been amended, and claims 16-17, and 19 have been cancelled. Seventeen (17) claims remain pending in the application: 1-15, 18 and 20. Reconsideration of the pending claims in view of the amendments above and remarks below is respectfully requested.

By way of this amendment, Applicant has made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned at (858) 552-1311 so that such issues may be resolved as expeditiously as possible.

At the outset, Applicants acknowledge with appreciation the Examiner's indication that claims 18 and 20 would be allowable if rewritten in independent format including all of the limitation of the base claim and any intervening claims. Applicants have amended claims 18 and 20 to be in independent form, and thus, claims 18 and 20 are now in condition for allowance.

Claim Rejections -- 35 U.S.C. § 102

1. Claims 1-3, 7, and 10-15 stand rejected under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 6,091,777 of Guetz et al. (herein the Guetz patent). Applicants have amended independent claims 1 and 10 such that the claims are not anticipated by the applied references. More specifically, claim 1 for example, has been amended to recite in part:

determining a fill level of a first-in-first-out (FIFO) device through which the encoded signal at the first bit rate;
determining a second encoder bit rate according to the second available bandwidth and the fill level of the FIFO device; and
encoding the signal at the second encoder bit rate.

The Guetz patent fails to teach or suggest at least the determining of a first-in-first-out device and determining a second encoder bit rate according to the available bandwidth and the fill level of the FIFO device. Further, the Examiner has indicated that the applied prior

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art fails to teach the monitoring of a fill level of a FIFO device and determining an encoder bit rate at least in part on the FIFO device fill level in allowing claim 18. Therefore, claim 1 is not anticipated by the Guetz patent.

Similarly, claim 10 is also not anticipated by the Guetz patent. For example, claim 10 has also been amended and recites in part:

- determining an available bandwidth envelope of the first changed available bandwidth envelope;
- determining a second encoding bit rate according to the determined available bandwidth envelope that maintains a signal quality when the first change in the available bandwidth envelope exceeds the predefined threshold;
- initiating the encoding of the signal at a subsequent frame with the second bit rate; and
- determining that the available bandwidth following the initiating of the encoding of the signal at the subsequent frame is sufficient to allow the generation of an additional I-frame, and generating an additional I-frame.

The Guetz patent fails to teach or suggest determining whether the available bandwidth is sufficient to allow for the generation of an additional I-frame, or the generating of an additional I-frame based on available bandwidth. Therefore, claim 10 is not anticipated by the Guetz patent.

2. Claims 16, 17, and 19 stand rejected under 35 U.S.C. § 102(b), as being anticipated by US Patent Application Publication No. 2002/0071052 of Itoh et al. (herein the Itoh reference).

Although Applicants traverse these rejections, the application has been amended to cancel claims 16, 17, and 19 in order to expedite issuance of the claims which the Examiner has indicated as allowable. Non-allowed claims may be pursued in a continuation application and the substance of the rejection may be addressed at that time. The present rejections are currently moot in view of Applicants' amendments.

Claim Rejections – 35 U.S.C. § 103

3. Claims 4-6, 8, and 9 stand rejected under 35 U.S.C. § 102(b), as being unpatentable over U.S. Patent No. 6,091,777 of Guetz et al. (the '777 patent) in view of the

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Itoh reference. As indicated above, independent claim 1 was amended to recite, in part, the determining of a fill level of a FIFO device and determining an encoder bit rate base at least in part on the fill level. Neither of the Guetz patent or the Itoh reference teach or suggest at least the determining of a fill level of a FIFO device and determining an encoder bit rate base at least in part on the fill level. Therefore, the applied combination of references fails to teach all of the elements of at least amended claim 1. Claims 4-6, 8 and 9 depend from claim 1. Therefore, claims 4-6, 8 and 9 are also not obvious in view of the combination of the Guetz patent and the Itoh reference based at least for their dependency on claim 1, and thus claims 4-6, 8 and 9 are also in condition for allowance.

Allowable Subject Matter

Applicants again thank the Examiner for indicating that claims 18 and 20 were allowable if amended to be in independent form incorporating the limitations of the base claims and intervening claims. As such, Applicants have amended claims 18 and 20 to be independent form incorporating the limitations of the base claims and intervening claims. Thus, claims 18 and 20 are now in condition for allowance.

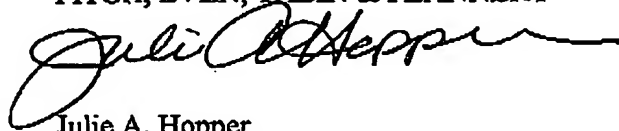
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CONCLUSION

Applicants respectfully submit that the above amendments and remarks place the pending claims in a condition for allowance. Therefore, a Notice of Allowance is respectfully requested.

Respectfully submitted,

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